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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,382	11/15/2000	Kell Michael Jensen	42390P9690	9498

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EXAMINER

PEZZLO, JOHN

ART UNIT PAPER NUMBER

2662

DATE MAILED: 05/12/2004

*[Handwritten number 9]*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/714,382

Applicant(s)

JENSEN ET AL.

Examiner

John Pezzlo

Art Unit

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9,11-15 and 17-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-9,12-15,18-22,24-28 and 30 is/are rejected.
- 7) ☐ Claim(s) 5,11,17,23 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

Claims 1, 3, 5, 6, 7, 8, 9, 13, 14, 15, 19, 20, 21, 25, 26, and 27 are objected to because of the following informalities:

1. Regarding claim 1 – Line 14, "selecting a port in the aggregation of ports" should read – selecting one of the ports in the aggregation of ports – to avoid confusion.
2. Regarding claim 3 – Line 2, "selecting a port in the aggregation of ports" should read – selecting said one of the ports in the aggregation of ports – to avoid confusion.
3. Regarding claim 5 – Lines 6 and 7, "the third MAC device" lacks antecedent basis.
4. Regarding claim 6 – Line 13, "the first MAC device" should read -- the second MAC device --.
5. Regarding claim 7 – Lines 7 and 8, "the destination address" should read – a destination address --.
6. Regarding claim 7 – Line 11, "select a port in the aggregation of ports" should read – select one of the ports in the aggregation of ports – to avoid confusion.

7. Regarding claim 8 – Line 5, "select a port in the aggregation of ports" should read –  
select said one of the ports in the aggregation of ports – to avoid confusion.

8. Regarding claim 9 – Line 2, "select a port in the aggregation of ports" should read –  
select said one of the ports in the aggregation of ports – to avoid confusion.

9. Regarding claim 9 – Line 3, "a destination address" should read – the destination address  
--.

10. Regarding claim 13 – Line 11, "select a port from among an aggregation of ports" should  
read – select one of the ports from among an aggregation of ports – to avoid confusion.

11. Regarding claim 14 – Line 5, "select a port in the aggregation of ports" should read –  
select said one of the ports in the aggregation of ports – to avoid confusion.

12. Regarding claim 15 – Line 2, "select a port in the aggregation of ports" should read –  
select said one of the ports in the aggregation of ports – to avoid confusion.

13. Regarding claim 19 – Line 15, "select a port from among an aggregation of ports" should  
read – select one of the ports from among an aggregation of ports – to avoid confusion.

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14. Regarding claim 20 – Line 5 - "select a port from the aggregation of ports" should read – select said one of the ports from the aggregation of ports – to avoid confusion.

15. Regarding claim 21 – Line 2, "select a port in the aggregation of ports" should read – select said one of the ports in the aggregation of ports – to avoid confusion.

16. Regarding claim 25 – Line 15, "select a port in the aggregation of ports" should read – select one of the ports in the aggregation of ports – to avoid confusion.

17. Regarding claim 25 – Line 10, " a match with one of a port and aggregation of ports" should read – a match with said one of a port and aggregation of ports --.

18. Regarding claim 26 – Line 5, "select a port in the aggregation of ports" should read – select said one of the ports in the aggregation of ports – to avoid confusion.

19. Regarding claim 27 – Line 2, "selecting a port in the aggregation of ports" should read – selecting said one of the ports in the aggregation of ports – to avoid confusion.

20. Regarding claim 27 – Lines 3 and 4, "a destination address" should read – the destination address --.

Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

I. Claims 1-3, 6-9, 12-15, 18-22, 24-28, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Oliver et al. (US 5,491,694 hereinafter Oliver.

1. Regarding claims 1, 12, 18, 25, and 30 - Oliver discloses receiving a data frame at a first port of a receiving data switch, the data frame originating at a first MAC device and having a destination address associated with a second MAC device, the second MAC device being associated with a destination data switch in the mesh, refer to Figure 1 and column 3 lines 55 to 67 and column 4 lines 1 to 50 and column 8.

Oliver discloses maintaining a data structure associating each of a plurality of destination addresses of discovered MAC devices with one of a port and an aggregation of ports on the receiving data switch, refer to column 3 lines 29 to 55.

Oliver discloses comparing the destination address of the received data frame with the data structure to determine a match with one of a port and aggregation of ports, refer to Figures 1 and 2 and column 8.

Oliver discloses transmitting the received data frame through the mesh of data switches according to a spanning tree protocol if no match is determined, refer to Figures 1 and 2 and columns 8 and 9. Oliver utilizes the SFPS server to establish a connection through the mesh.

Oliver discloses selecting **one of the ports** in the aggregation of ports for transmitting the received data frame to the destination data switch if the destination address is associated with the aggregation of ports, refer to Figures 1 and 2 and columns 8 and 9.

2. Regarding claims 2, 8, 14, 20, and 26 – Oliver discloses associating the destination address with the destination data switch and determining the associated port or aggregation of ports based upon the destination data switch, refer to Figures 1 and 2 and columns 8 and 9.

3. Regarding claims 3, 9, 15, 21, and 27 – Oliver discloses selecting **said one of the ports** in the aggregation of ports for transmitting the data frame based upon one of the destination address and a source address of the data frame associated with the first MAC device, Figures 1 and 2 and columns 8 and 9.

4. Regarding claims 6 and 19 - Oliver discloses receiving a data frame at a first port of a receiving data switch, the data frame originating at a first MAC device and having a destination address associated with a second MAC device, the second MAC device being associated with a destination data switch in the mesh, refer to Figure 1 and column 3 lines 55 to 67 and column 4 lines 1 to 50 and column 8.

Oliver discloses maintaining a data structure associating each of a plurality of destination addresses of discovered MAC devices with one of a port and an aggregation of ports on the receiving data switch, refer to column 3 lines 29 to 55.

Oliver discloses comparing the destination address of the received data frame with the data structure to determine a match with one of a port and aggregation of ports, refer to Figures 1 and 2 and column 8.

Oliver discloses if no match is determined, transmitting a message to at least one other data switch in the mesh specifying the receiving data switch as a destination data switch of the **second** MAC device, utilizing the SFPS server to establish a connection through the mesh, refer to Figures 1 and 2 and columns 4, 8, and 9.

5. Regarding claims 7 and 24 – Oliver discloses receiving a data frame at a first port of a receiving data switch, the data frame originating at a first MAC device and having a destination address associated with a second MAC device, the second MAC device being associated with a destination data switch in the mesh, refer to Figure 1 and column 3 lines 55 to 67 and column 4 lines 1 to 50 and column 8.

Oliver discloses maintaining a data structure associating each of a plurality of destination addresses of discovered MAC devices with one of a port and an aggregation of ports on the receiving data switch, refer to column 3 lines 29 to 55.

Oliver discloses comparing the destination address of the received data frame with the data structure to determine a match with one of a port and aggregation of ports, refer to Figures 1 and 2 and column 8.



Oliver discloses selecting **one of the ports** in the aggregation of ports for transmitting the received data frame to the destination data switch if the destination address is associated with the aggregation of ports, refer to Figures 1 and 2 and columns 8 and 9.

Oliver discloses transmitting the received data frame through the mesh of data switches according to a spanning tree protocol if no match is determined, refer to Figures 1 and 2 and columns 8 and 9. Oliver utilizes the SFPS server to establish a connection through the mesh.

6. Regarding claim 13 – Oliver discloses receiving a data frame at a first port of a receiving data switch, the data frame originating at a first MAC device and having a destination address associated with a second MAC device, the second MAC device being associated with a destination data switch in the mesh, refer to Figure 1 and column 3 lines 55 to 67 and column 4 lines 1 to 50 and column 8.

Oliver discloses maintaining a data structure associating each of a plurality of destination addresses of discovered MAC devices with one of a port and an aggregation of ports on the receiving data switch, refer to column 3 lines 29 to 55.

Oliver discloses comparing the destination address of the received data frame with the data structure to determine a match with one of a port and aggregation of ports, refer to Figures 1 and 2 and column 8.

Oliver discloses selecting **one of the ports** in the aggregation of ports for transmitting the received data frame to the destination data switch if the destination address is associated with the aggregation of ports, refer to Figures 1 and 2 and columns 8 and 9.

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Oliver discloses transmitting the received data frame through the mesh of data switches according to a spanning tree protocol if no match is determined, refer to Figures 1 and 2 and columns 8 and 9. Oliver utilizes the SFPS server to establish a connection through the mesh.

7. Regarding claims 22 and 28 - Oliver discloses comparing the destination address of the received data frame with the data structure to determine a match with one of a port and aggregation of ports, refer to Figures 1 and 2 and column 8.

Oliver discloses transmitting the received data frame through the mesh of data switches according to a spanning tree protocol if no match is determined, refer to Figures 1 and 2 and columns 8 and 9. Oliver utilizes the SFPS server to establish a connection through the mesh.

#### ***Allowable Subject Matter***

Claims 5, 11, 17, 23, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claim 1-3, 6-9, 12-15, 18-22, 24-28 and 30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Dobbins et al. (US 6,711,171 B1) discloses, a distributed connection-oriented services, for switched communications networks.
2. Bare (US 6,556,541 B1) discloses a MAC address learning and propagation in load balancing switch protocols.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pezzlo whose telephone number is (703) 306-5420. The examiner can normally be reached on Monday to Friday from 8:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on (703) 305-4744. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C.

or faxed to:

(703) 872-9306

For informal or draft communications, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

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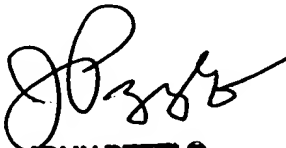
Crystal Park 2

2121 Crystal Drive

Arlington, VA.

John Pezzlo

10 May 2004

  
**JOHN PEZZLO**  
**PRIMARY EXAMINER**